

**Regional Water Quality Control Board, Central Valley Region**  
**2007 Triennial Review**  
**Response to Comments**  
**Water Quality Control Plan for the**  
**Tulare Lake Basin**

The Regional Water Quality Control Board, Central Valley Region (Central Valley Water Board) has provided opportunities for the public to submit written comments on the 2007 Triennial Review.

Written comments received prior to the 13 September 2007 workshop were submitted by:

1. Mr. Gerald F. Helt, City Engineer, City of Taft (page 2)
2. Mr. W. E. Loudermilk, Regional Manager, California Department of Fish and Game (page 2)
3. Ms. Laurel Firestone, Community Water Center; Debbie Davis, Environmental Justice Coalition for Water; and Martha Guzman, California Rural Legal Assistance Foundation (page 3)
4. Ms. Karen Schwinn, Associate Director Water Division, U.S. Environmental Protection Agency (page 5)
5. Mr. Juan Arambula, Assemblymember, 31<sup>st</sup> District (page 5)
6. Mr. R.L. Schafer, Tule River Subwatershed Southern San Joaquin Valley Water Quality Coalition (page 5)

During the Workshop on 13 September 2007, verbal comments were received from:

7. Mr. Stephen Hogg, Central Valley Clean Water Association and City of Fresno (page 8)
8. Mr. Bill Thomas, Southern San Joaquin Valley Water Quality Coalition (page 8)
9. Mr. David Cone, Deputy General Manager, Kings River Conservation District (page 8)
10. Mr. Lloyd Fryer, Kern County Water Agency (page 9)
11. Mr. R. L. Schafer, Secretary of the Tule River Association and Tule River subwatershed of the Southern San Joaquin Water Quality Coalition (page 9)
12. Mr. Dave Noerr, Councilman City of Taft (page 9)
13. Mr. Bob Gorson, City Manager, City of Taft (page 9)
14. Ms. Susana DeAnda, Community Water Center (page 9)
15. Mr. Elliot Balch, on behalf of Assemblymember Juan Arambula (page 9)

During 303(d) comment period:

16. Mr. Parry Klassen, East San Joaquin Water Quality Coalition (page 10)
17. Mr. Jon Nelson, Hume Lake Christian Camps (page 10)
18. Ms. Terry Kaplan-Henry, Sequoia National Forest (page 10)

Public Comments:

19. Ms. JoAnne Kipps, (page 11)

Following are the responses to comments received regarding the Triennial Review of the Water Quality Control Plan for the Tulare Lake Basin.

Mr. Gerald F. Helt, City Engineer, City of Taft

1. *City of Taft would like Sandy Creek declassified as a water of the United States and de-designate warm freshwater habitat.*

US EPA conducted a study and determined that Sandy Creek is hydrologically isolated and not a water of the United States (letter of 10 April 2008). The Central Valley Water Board found in Order No. R5-2009-0054 that Sandy Creek was not a water of the United States, and issued the City of Taft non-NPDES waste discharge requirements. No Basin Plan amendment is necessary to implement this determination. Staff investigated the appropriateness of WARM beneficial use in coordination with Department of Fish and Game (DFG). Based on the field evaluation, DFG recommends that WARM, WILD, and RARE remain designated beneficial uses of Sandy Creek. Given DFG's findings, we do not intend to reconsider the WARM beneficial use.

Mr. W. E. Loudermilk, Regional Manager, California Department of Fish and Game

2. *The Basin Plan does not currently address wetland beneficial uses and the regulation of discharges to wetlands, either through surface or groundwaters.*

The State Water Board adopted Resolution No. 2008-0026 on 15 April 2008 to begin work on a statewide wetland and riparian area policy for future consideration. The Central Valley Water Board will be coordinating with the State Water Board to develop the statewide policy. Further information can be found at: [http://www.waterboards.ca.gov/water\\_issues/programs/cwa401/wrapp.shtml](http://www.waterboards.ca.gov/water_issues/programs/cwa401/wrapp.shtml)

3. *The Basin Plan should be amended to list impaired water bodies which exceed water quality objectives based upon reliable data.*

The 303(d) request should be submitted to the Central Valley Water Board during the listing process. Staff evaluated data submitted during the last solicitation and the Central Valley Water Board approved the 2008 Integrated Report of Federal Clean Water Act section 305(b) and section 303(d) list of water quality limited segments in June 2009. Staff will be soliciting data for the 2010 list later this calendar year. When submitting data for 303(d) list addition, the data should include the type of information that would support listing as described in the Listing Policy:

[http://www.waterboards.ca.gov/water\\_issues/programs/tmdl/303d\\_listing.shtml](http://www.waterboards.ca.gov/water_issues/programs/tmdl/303d_listing.shtml) .

The process to identify impaired water bodies is on a separate timeline from the triennial review. Since any changes to the Basin Plan require a full basin plan amendment process, it is not efficient to use limited staff resources to add

impaired water bodies to the Basin Plan. When the Central Valley Water Board addresses the impairment, the Central Valley Water Board may consider amending the basin plan to include an implementation program to attain the water quality standards.

4. *Surface water beneficial uses should NOT be amended to remove assigned beneficial uses and the Kings, Kaweah, Tulare Lake, Tule and Westside groundwater hydrologic units should be amended to add the beneficial use of WILD and RARE.*

Designation and de-designation of beneficial uses are done in accordance with State and Federal laws and regulations that require a structured analysis that includes the scientific data supporting the proposed action. The Central Valley Water Board will designate and de-designate beneficial uses in accordance with the applicable State and Federal laws and regulations. Central Valley Water Board staff is interested in the interactions between groundwater and wildlife/rare species. DFG should provide specific information on the beneficial uses that DFG would like the Central Valley Water Board to consider, and what are the appropriate water quality objectives and implementation program that would protect those beneficial uses. The State Water Board wetlands policy is looking at new and/or revised beneficial use definitions. See response to Comment No. 2 for additional information is on wetlands.

5. *The Basin Plan should recognize the dynamics of water imports and exports and capitalize across water years to protect beneficial uses.*

The Central Valley Water Board will consider information on water imports and exports and the potential to support beneficial uses with stored water. Salt import should be reduced by assuring that imported water is of the highest quality possible. Staff are working with Department of Water Resources on the update to the California Water Plan to identify sufficient water supplies to protect beneficial uses.

6. *The Basin Plan should incorporate an element which encourages the integration of water supply development and reliability, flood control and wetland restoration with strategies to sustain designated beneficial uses.*

The Central Valley Water Board wants to protect the beneficial uses of the waters in its jurisdiction and is interested in more information on what kind of element DFG had in mind.

Ms. Laurel Firestone et al

7. *The Basin Plan must incorporate drinking water source protection, particularly groundwater, as a top priority and develop a clear, concrete timetable and action plan for implementation.*

The municipal and domestic supply beneficial use (MUN) is defined as uses of water for community, military, or individual water supply systems, including, but not limited to, drinking water supply. Most groundwater within the Tulare Lake Basin is designated MUN. At a minimum, water designated MUN shall not contain concentrations of chemical constituents in excess of the maximum contaminant levels (MCLs) specified in the provisions of Title 22 of the California Code of Regulations. There are several groundwater protection policies and programs. For example dairies are regulated by a general order that will address nitrates and salts in groundwater and irrigated lands are regulated by the Irrigated Lands Conditional Waivers. Also, the Central Valley Water Board recently adopted Resolution No. R5-2008-0181, which places a priority in developing a groundwater strategy for the Central Valley Region. The Groundwater Strategy will assure comprehensive, consistent, and coordinated protection of the beneficial uses of groundwater throughout the region to ensure a sustainable, high quality water supply for the Central Valley. The Triennial Review Workplan includes a high priority issue to assess groundwater and develop control policies. See Issue No. 1 for more information.

8. *Nitrate contamination of drinking water sources continues to occur in every county in the Tulare Lake Basin, meaning that municipal and domestic beneficial uses are not being protected and must be restored. Given the widespread impact to beneficial uses in the region, particularly human health, a strong program for implementation should be given top priority.*

See response to Comment No. 7 and Issue No. 4.

9. *The Regional Board should require all dischargers of groundwater contaminants to provide monitoring data, at least up and down gradient of their facility, as part of the permit requirements.*

In general, waste discharge requirements for discharges of waste that could cause long-term loss of a designated beneficial use or that could impair the designated beneficial use require groundwater monitoring. For example, wastewater treatment facilities (Dinuba, Exeter, Farmersville, Porterville, and Tulare), wineries, and some dairies. Attachment A of General Order No. R5-2007-0035, the general order for existing milk cow dairies, requires upgradient and downgradient monitoring wells. Groundwater monitoring programs at many facilities require upgradient and downgradient monitoring when ordered by the Executive Officer. The Central Valley Water Board does require groundwater monitoring as part of the permitting process.

10. *Salinity objectives should include nitrates specifically and clarify the sources of nitrates, how objectives will be implemented in best management practices and treatment technology requirements, as well as the means of measuring compliance.*

The Central Valley Water Board is concerned with nitrates, which are part of salts within the Tulare Lake Basin. For waters designated as MUN, both nitrate and salts have maximum contaminant levels which already serve as water quality objectives. However, Water Code Section 13360 prohibits the Central Valley Water Board from specifying the manner of compliance. The Central Valley Water Board is exploring sources and best management practices in cooperation with Central Valley Salinity Alternatives for Long-Term Sustainability (CV-SALTS). CV-SALTS is a collaborative basin planning effort aimed at developing and implementing a comprehensive salinity and nitrate management program. Groundwater and salinity are top priorities identified consistently in triennial reviews. See Issues No. 3 and 4 for more information.

11. *It is vital that municipal use designations not be eliminated in areas where drinking water wells are located merely because point or nonpoint contamination sources have been allowed to pollute the aquifer to the point that it is no longer useable. The Regional Board has a responsibility to protect and restore our water for beneficial uses.*

Designation and de-designation of beneficial uses of groundwater are done in accordance with State laws and regulations that require a structured analysis that includes the scientific data supporting the proposed action. The Central Valley Water Board will designate and de-designate beneficial uses of groundwater in accordance with the applicable State laws and regulations. In accordance with the California Water Code, the Central Valley Water Board protects the beneficial uses of the waters in its jurisdiction. The Central Valley Water Board's strategy for managing contaminated sites is guided by the Water Code, Chapter 15, Title 27, and State Water Board Resolution No. 92-49. Groundwater cleanup is described in the Tulare Lake Basin Plan started at page iv-23.

Ms. Karen Schwinn, Associate Director Water Division, U.S. EPA

12. *Other parties have emphasized the importance of improving monitoring and management of groundwater in this region – especially considering extensive reliance on groundwater for drinking water supplies. We agree that steps to better manage this resource are essential.*

*In addition, we recommend that a great emphasis be placed on work to support the protection and restoration of wetlands and aquatic resources.*

The Central Valley Water Board appreciates the comment and the support of monitoring and groundwater management. The Water Boards also agree that

protection and restoration of wetlands and aquatic resources is important. See response to Comment No. 2 for more information.

Juan Arambula, Assemblymember, 31<sup>st</sup> District

13. *Addressing salinity issues is critical for the viability of our agricultural economy.*

The Central Valley Water Board thanks Assemblymember Arambula for his support in identifying a critical issue and his support. Salinity is an issue identified in our work plan with a high priority. The Central Valley Water Board is exploring sources and best management practices in cooperation with CV-SALTS. CV-SALTS is a collaborative basin planning effort aimed at developing and implementing a comprehensive salinity and nitrate management program. See Issue No. 3 for more information.

R.L. Schafer, Tule River Subwatershed Southern San Joaquin Valley Water Quality Coalition

14. *The paramount water quality problem in the Basin is the accumulation of salts.*

The Central Valley Water Board agrees that salt is a high priority. See response to Comment No. 13.

15. *The definitions of the beneficial uses need to be reviewed in detail and in some cases clarified.*

Beneficial use definitions are consistent statewide; however, the Central Valley Water Board can make minor modifications as appropriate. Please specify the change in definition you are contemplating, and which water bodies would be affected.

16. *The designations in Table II-1, Tulare Lake Basin, Surface Water Beneficial Uses and Table II-2, Tulare Lake Basin Groundwater Beneficial Uses, need to be reevaluated for past, present and probable future beneficial uses, particularly with respect to the reasonableness for water quality requirements for intermittent streams, stream channels that are dry most of the year, for MUN, WARM, COLD, WILD, RARE, and SPWN.*

Designation and de-designation of beneficial uses are in accordance with State and Federal laws and regulations. The Central Valley Water Board has explored the possibility of accounting for the climate and hydrology of waterbodies in determining beneficial use designations. Also, please see response to Comment No. 4.

17. *Generally, the water quality objectives of the Tulare Lake Basin Plan, both inland surface waters and groundwater are well constituted; however, additional numerical limitations would be helpful for implementation.*

Please provide specific numeric limitations with supporting documentation.

18. *Nearly all of the Implementation Plan standards, regulations, prohibitions, policies, principles, goals, objectives and recommendations have been utilized and from personal experience effectively implemented. The basin plan serves as the reference document, the guide, for project development and preservation of water quality of the Tulare Lake Basin.*

The basin plans are the State's regulations for protecting the waters of the state and have the full force and effect of law.

19. *The Fresno Office staff of the RWQCB has provided thorough and detailed assistance for the effective implementation of the Basin Plan water quality objectives and standards. We, that represent the public districts, stakeholders and landowners greatly appreciate and acknowledge the professional relationship that prevails with the staff.*

The Central Valley Water Board appreciates your comments.

20. *It is important that all such prohibitions, policies, controls and plans are updated but remain consistent and provide stability for the reissuance of WDRs and waivers, and for the continuation of general orders.*

Please provide specifics of anything that needs updating, in what way it should be updated, and the supporting data for any proposed amendment to the Basin Plan.

21. *Dairies are a major agricultural industry in Tulare County, more than 300 dairy operations, and the recent General Order has established additional and comprehensive requirements, some of which will result in extensive costs for implementation and other provisions will result in a detailed record of actions already being conducted by the dairymen. After the existing conditions report due 31 December 2007 and other reports due 01 July 2008 have been developed, transmitted and reviewed, and the problems with the general order identified, we encourage the RWQCB conduct a further hearing for amendment of the identified problems with the General Order.*

The triennial review is primarily for receiving comments on planning issues. Specific orders adopted by the Central Valley Water Board have comment periods before orders are adopted. Please coordinate with staff in the Dairy program for revision or update of the General Order.

22. *The irrigated lands agricultural discharge waiver program (ILP) is another example of the implementation of a plan for water quality control of nonpoint source discharges. However, the ILP needs continuity and stability with a requirement that after the characterization of the water quality of the basin or subbasin has been achieved and the identification of water quality issues*

*resolved, the level of surveillance, monitoring, and reporting needs to be curtailed to a reasonable frequency.*

The triennial review is primarily for receiving comments on planning issues. Specific waivers and other orders adopted by the Central Valley Water Board have comment periods before waivers are issued. Please coordinate with staff in the Irrigated Lands program for revision or update of issues.

23. *The Tulare Lake Basin is a closed and isolated basin and surface water quality must be treated differently from the remainder of the Central Valley. Either a separate irrigated lands agricultural discharge waiver program or a General Order needs to be formulated for the unique conditions of the Tulare Lake Basin.*

See response to Comment No. 22.

24. *The Basin Plan also identifies objectives of a surveillance and monitoring program which are comprehensive and need to be reviewed, clarified and implemented.*

The State Water Board has Groundwater Ambient Monitoring Assessment (GAMA) and Surface Water Ambient Monitoring Program (SWAMP) programs which are conducted on a regular basis and provide information regarding the status of groundwater and surface water. See Issue No. 4 for more information.

25. *We concur that the current monitoring and surveillance program within the Tulare Lake Basin is irregular and detailed information may not be available for areas of the Basin, and we support a more comprehensive and organized program*

See response to Comment No. 24. The Central Valley Water Board is developing a ground water strategy, establishing a Groundwater Monitoring Advisory Workgroup, and welcomes your support in developing a more comprehensive and organized program.

Oral comments submitted on 13 September 2007

26. Steven Hogg, City of Fresno

*Two high priority issues 1) Groundwater quality objectives for salinity and 2) the beneficial use designations. Electrical Conductivity standard of 500  $\mu$ mhos/cm + source may not be attainable. Groundwater quality objectives for salinity need to be revisited. Tributary rule and sources of drinking water policy create costly requirements for communities. Central Valley Clean Water Association (CVCWA) . Karl Longley will be speaking to executive committee to develop funding.*

A region-wide strategy on salinity is being formulated by the Central Valley Water Board. See Issue No. 3 for more information, in regards to salinity. See



Comment No. 7, in regards to groundwater.

27. Bill Thomas, Southern San Joaquin Valley Water Quality Coalition

*Basin Plan is a fairly good basis to start. The Tulare Lake is a closed basin with no outlet. Concur with the points by staff. Need to do a critical review of the designation of the beneficial uses, particularly MUN, REC-1, cold and warm. Move from narrative objectives to numerical objectives.*

Please see response to Comments Nos. 4 and 17.

28. David Cone, Deputy General Manager KRCD

*Salinity in lower Kings River has basically been improving, its not that there isn't a problem, it's not as bad as I myself had foreseen*

Central Valley Water Board staff look forward to continuing to work with you in monitoring the salinity in the Kings River. The priority of salinity in the lower Kings River will be changed from High priority to Medium Priority based upon continued monitoring efforts documenting salinity improvements.

29. Lloyd Fryer, Kern County Water Agency

*Out of valley solution to reduce salinity and keep beneficial uses.*

Salinity is a critical issue which we are evaluating. See Issue No. 3 for more information. In addition, the Basin Plan currently includes a recommendation for a valleywide drain to remove salt-laden wastewater from the Basin.

30. R.L. Shafer, Watermaster Tule Lake Association, Tule River Subwatershed

*In 1975, when the Basin Plan was adopted, there were numerous comments. In the Tulare Lake Basin the most important industry is agriculture. Need to reevaluate beneficial uses on streams which are dry.*

Please see response to Comments Nos. 1 and 4.

31. Dave Noerr, councilman of the City of Taft and Bob Gorson, City manager of the City of Taft

*The WARM beneficial uses should be de-designated from Sandy Creek. After a 25-yr rainfall event, the Creek was dry after 4 hours.*

Please see response to Comment No.1.

32. Community Water Center

*We want clear objectives and a clear implementation plan with clear benchmarks.*

The Central Valley Water Board is interested in maintaining a clear Basin Plan that protects the beneficial uses of the waters in its jurisdiction. Please submit specific information on what revisions to the Basin Plan are necessary and please submit any information that supports your proposed revisions.

33. Elliot Balch on behalf of Senator Juan Arambula – *The Senator is very concerned about groundwater quality and stands ready to assist the Board in any way to increase funds and staff. He wishes the Board could play greater role with communities with impacted groundwater and alternative sources of surface water.*

Please see response to Comment No. 7. Many programs would benefit from additional resources, including the Dairy Program, the Irrigated Lands Regulatory Program, and CV-SALTS.

Comments from 303(d) submitted by 16 March 2009

34. Mr. Parry Klassen, East San Joaquin Water Quality Coalition

*The ESJWQC is aware of similar situations where beneficial uses have been contested by entities within the Tulare Basin Plan area during the associated Basin Plan amendment process. The entities that supplied documentation regarding inappropriate beneficial use designations were told that there are insufficient funds to review those documents. The ESJWQC would like to take this opportunity to remind the State and Regional Boards of the importance of reviewing and updating beneficial uses.*

The list of triennial review issues far exceeds the staff resources allocated to planning activities. Existing resources only allow a small portion of the highest priority issues to be addressed. Addressing inappropriate beneficial use designations is a high priority issue. See Issue No. 1 for more information on this issue.

35. Mr. Jon Nelson, Hume Lake Christian Camps

*The 'Beneficial Use' determination of a cold water fishery does not fit the intent of this body of water. I know trying to change the beneficial use of Hume Lake exceeds the scope of this determining board. But to acknowledge the questionability of the current 'Beneficial Use' determination further underlines the insufficient evidence to support a determination for the Hume Lake 303(d) listing.*

The Central Valley Water Board appreciates the submittal of this information and has included Hume Lake in the Triennial Review Workplan. Please see Issue No. 1 for more information.

36. Ms. Terry Kaplan-Henry, Sequoia National Forest

*Beneficial uses of Water are not properly matched to habitat conditions relative to Cold/Warm water habitat designations. 1) if a designation of warm fresh water were recognized for Lake Isabella, a beneficial use much more appropriate for existing habitat conditions...2) If a designation of warm fresh water were recognized for Hume Lake, a beneficial use much more appropriate for existing habitat conditions*

The Central Valley Water Board appreciates the submittal of this information and has included Lake Isabella and Hume Lake in the Triennial Review Workplan. Please see Issue No. 1 for more information.

37. Ms. JoAnne Kipps, Private Citizen

*Recommend that the Basin Plan be amended to delete Guidelines for the Land Disposal of Stillage Waste from Wineries. Encourage the development of a general order for existing land discharges of stillage and non-stillage winery waste*

The Central Valley Water Board is concerned over groundwater quality and has included the issue of reviewing and revising, as necessary, the winery waste guidelines in Issue No. 4, the groundwater assessment and control programs.